

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Rules
Governing the Transfer of Customers from
Competitive Local Carriers Exiting the Local
Telecommunications Market.

Rulemaking 03-06-020
(Filed June 19, 2003)

**ASSIGNED COMMISSIONER'S RULING
REQUESTING FURTHER COMMENTS**

This ruling requests an additional round of opening and reply comments following the workshop held on June 30, 2004 to discuss implementation of the proposed Mass Migration Guidelines (MMG) attached to my May 4, 2004 ruling and scoping memo.

Background

The Commission opened this rulemaking to establish rules governing the transfer of customers from Competitive Local Exchange Carriers (CLEC) exiting the local telecommunications market. An Assigned Commissioner Ruling (ACR) and Scoping Memo issued on May 4, 2004. Proposed MMG were attached to the ACR as Attachment A, and AT&T Communications of California, Inc. (AT&T), MCI, Inc. (MCI), Pacific Bell Telephone Company (SBC California), Sprint Communications Company L.P. (Sprint), The Utility Reform Network (TURN), and Verizon California Inc. (Verizon) filed comments on June 2, 2004. Representatives of those parties participated in the June 30, 2004 workshop, and Cox California Telecom, L.L.C., and SureWest Telephone also participated.

Verizon agreed to prepare a workshop report, circulate the draft among the parties, and file and serve the workshop report on or before July 30, 2004.

Parties' Concerns With Proposed MMG

Parties identified several areas of concern with the proposed MMG, in comments and at the workshop, including default carrier obligations and compensation, waiver of service quality rules in mass migration situations, applicability of the Federal Communications Commission's (FCC) customer authorization waiver provision, and expedited Commission approval of applications for CLECs to exit the market. The following concerns were addressed at the workshop:

Default Carrier

- Compliance with default carrier obligations would be difficult and burdensome because CLECs rarely provide acquiring carrier with information needed to migrate the CLEC's customer base
- Seamless transfer difficult where CLEC is facilities-based and transfer in UNE-L and UNE-P environments might result in offering only basic dial tone
- Provisions are vague: how will Commission determine that default carrier provides service, how will Commission determine whether underlying network provider, carrier of last resort or carrier offering same type of service will be the default carrier
- Sample letter #2 does not identify default carrier
- End-users may not want to be forced to receive service from default carrier
- Source of default carrier compensation not competitively neutral
- California High Cost Fund cannot be used to compensate default carriers

- Changes in price cap adjustment only available to ILECs and would make ILEC's prices (billing surcharge) higher
- No source of compensation for default carriers other than ILECs
- Limited exogenous factor recovery must be expressly stated
- Compensation should not apply to internal corporate restructuring

Waiver of Service Quality Rules

- Revisions to GO 133-B and OSS performance measure reporting requirements should not be included in this proceeding
- GO 133-B reporting requirements do not need to be modified; exceptions should be reported in normal manner but Commission should view as informational only
- OSS performance measure reporting needs to be modified because proposal is burdensome

Customer Authorization Waiver Provision

- Under proposed guidelines slamming complaints are possible

Commission Approval Should Be Expedited

- Compliance with 90-day timeline for carrier to exit market is unworkable if the Commission does not approve in a timely manner an application to withdraw from service

At the workshop parties requested the opportunity to submit further comments on default carrier and other issues, because this Commission's proposal places responsibilities on default carriers that other states do not. The parties further requested a second workshop to resolve implementation concerns. I will request parties' comments on the following issues:

- Should the MMG treat default carriers differently depending on whether the exiting carrier resells the default carrier's local service or is providing service as a UNE-P or UNE-L carrier?

- Should the MMG include additional notice procedures to ensure that end-user customers have the opportunity to select a new carrier?¹
- What competitively neutral alternatives exist to the default carrier compensation proposal contained in the draft MMG, including but not limited to payments by exiting and arranged carriers? Should end-user customers who fail to timely select an alternative provider when there is no arranged carrier pay any costs associated with migrating that customer to a default provider?
- What protections for the default carrier are found in those carriers' tariffs? What further protections for the default carrier, if any, should be included in the MMG?
- Does the end-user notice required in the MMG qualifies, or should qualify, as a Commission-mandated notice that should conform to the CLEC in language requirements of Decision 96-10-076, Appendix A?
- Should the Commission establish procedures to streamline approval of exiting carriers' applications, including but not limited to expedited approval of applications with exit plans that conform to the MMG and mediation of opposed applications?

Schedule

The schedule for this proceeding did not anticipate comments following the workshop or the possibility that a second workshop would be held. Thus the schedule must be modified. The comments addressed in this ruling shall be filed and served within 30 days of this ruling and reply comments shall be filed within 45 days of this ruling. If necessary, an additional workshop will be held.

¹ Telecommunications Division is in the process of updating its listing of local exchange carriers and of working to provide a Web link to local carriers' applications to exit the market.

Otherwise, a draft decision will follow within 90 days and a final decision will issue 30 days after the draft decision.

IT IS RULED that:

1. The June 30, 2004 Workshop Report shall be filed on or before July 30, 2004.
2. Comments on the issues identified in this ruling shall be filed within 30 days of this ruling and reply comments shall be filed within 45 days of this ruling.

Dated July 23, 2004, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner's Ruling Requesting Further Comments on all parties of record in this proceeding or their attorneys of record.

Dated July 23, 2004, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.